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Attorneys for Plaintiff STEPHANIE ENYART

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEPHANIE ENYART

Case No. C 09-05191 MEJ

Plaintiff,

**STIPULATED MOTION FOR
ADMINISTRATIVE RELIEF FROM
GENERAL ORDER NO. 56**

v.

Judge: Hon. Charles R. Breyer

NATIONAL CONFERENCE OF BAR
EXAMINERS, INC.

Action Filed: November 3, 2009

Defendant.

I. ACTION REQUESTED

The parties to the above-captioned case, plaintiff STEPHANIE ENYART and defendant NATIONAL CONFERENCE OF BAR EXAMINERS (“NCBE”), jointly move for administrative relief from General Order No. 56 (“the Order”), pursuant to Local Rule 7-11, on the basis that the Order is inapplicable to the instant matter. The parties also seek relief from the Order so that the parties may brief a motion by plaintiff for preliminary injunction, and engage in discovery and other proceedings related to that motion, pursuant to their Joint Discovery and Scheduling Plan. The reasons supporting this joint-request for administrative relief are set forth below.

II. GENERAL ORDER NO. 56

At the time this case was filed, it was designated as subject to the Order. The Order, at the time this case was filed, establishes a framework designed to encourage the early settlement of access cases relating to physical access barriers. Among other things, the Order provides the

1 following:

- 2 • no later than one hundred (100) days after the filing of the complaint, the parties shall
- 3 meet in person at the subject premises at issue;
- 4 • the parties shall complete initial disclosures no later than seven (7) days prior to this joint
- 5 inspection;
- 6 • the parties shall meet and confer in person, at the joint inspection or within ten (10)
- 7 business days thereafter, to discuss all claimed violations;
- 8 • the plaintiff shall specify all claimed premises violations and the desired remediation;
- 9 • the defendant shall specify whether it is willing to remediate and whether defendant
- 10 agrees with plaintiff's proposed remediation or has an alternate proposal;
- 11 • if the parties agree on remediation, the plaintiff shall submit a statement of damages,
- 12 including all claims for attorneys' fees and costs and make a demand for settlement;
- 13 • if the parties cannot settle the case within forty-five (45) days of the joint site inspection,
- 14 the plaintiff shall file a "Notice for Need for Mediation," and the parties are then referred
- 15 to the Court's ADR department for mediation;
- 16 • if mediation is unsuccessful, the plaintiff shall file a motion for administrative relief,
- 17 requesting an initial case management conference;
- 18 • the parties are not permitted to engage in discovery or other proceedings prior to these
- 19 stages.

20 The Order provides that "any party who wishes to be relieved of any requirement of this
21 order may file a motion for administrative relief pursuant to Local Rule 7-11."

22 **III. STIPULATION THAT GENERAL ORDER NO. 56 DOES NOT APPLY TO THE**
23 **ABOVE-CAPTIONED CASE**

24 **IT IS HEREBY STIPULATED** between and among plaintiff STEPHANIE ENYART
25 and defendant NCBE, by and through their respective counsel of record, subject to the approval
26 of the Court, which plaintiff and defendant jointly request, as follows:

1 WHEREAS, plaintiff filed this action in the United States District Court, Northern
2 District of California, on November 3, 2009;

3 WHEREAS, after conferring by telephone and email pursuant to Federal Rule of Civil
4 Procedure 26(f), the parties executed and filed a "F.R.C.P 26(f) Joint Discovery and Scheduling
5 Plan" on November 25, 2009;

6 WHEREAS, the parties thereafter stipulated to the voluntary dismissal without prejudice
7 of all defendants except NCBE;

8 WHEREAS, through this suit, plaintiff seeks to obtain accommodations for her alleged
9 disability on the Multistate Professional Responsibility Exam ("MPRE") and the Multi-State Bar
10 Examination ("MBE");

11 WHEREAS, plaintiff is seeking only injunctive relief in the form of an order requiring
12 defendant to provide plaintiff with the accommodations that she has requested for these two
13 exams, and there are therefore no "premises" at which to meet for joint inspection;

14 WHEREAS, under the terms of the Joint Discovery and Scheduling Plan, the parties
15 served their initial disclosures pursuant to FRCP 26(a) on November 30, 2009;

16 WHEREAS, plaintiff has already specified, and defendant considered, all claimed
17 violations and the desired remediation through requests for accommodations, through previous
18 internal administrative appeals, as well as through contact between counsel;

19 WHEREAS, plaintiff has applied to take the February 2010 California Bar Exam, which
20 commences February 23, 2010, and includes the MBE, and she accordingly intends to file a
21 motion for preliminary injunction for an order requiring defendant to provide the requested
22 accommodations on the California Bar examination and the MPRE examination pending a trial
23 on the merits (which NCBE opposes);

24 WHEREAS, through their Joint Discovery and Scheduling Plan, the parties have agreed
25 to a briefing and hearing schedule under which plaintiff's motion for preliminary injunction and
26 all papers in support thereof shall be filed and personally served on defendant's counsel on or
27 before December 24, 2009, which is inconsistent with the terms of the Order;

1 **WHEREAS**, the parties have commenced discovery under the terms they agreed to in
 2 their Joint Discovery and Scheduling Plan, which is inconsistent with the terms of the Order;

3 **WHEREAS**, the parties' Joint Discovery and Scheduling Plan includes an agreement to
 4 "stipulate to an administrative motion pursuant to Local Rule 7-11 that General Order No. 56
 5 does not apply to the above-captioned case for the reasons to be set forth in the stipulated
 6 motion"; and

7 **WHEREAS**, since filing the Joint Discovery and Scheduling Plan, the parties have
 8 agreed to January 29, 2009, not less than 35 days after the date for filing, service, and notice of
 9 Plaintiff's motion for preliminary injunction under the Joint Discovery and Scheduling Plan, as
 10 the hearing date on Plaintiff's motion for preliminary injunction, which allows for the Court to
 11 hear Plaintiff's motion for preliminary injunction within the time required by Local Rule 7-2(a),
 12 and not on shortened time;

13 **THE PARTIES HEREBY STIPULATE AS FOLLOWS:**

14 The Parties Stipulate that General Order No. 56 does not apply to the above-captioned
 15 case for the reasons set forth above.

16 Respectfully submitted:

17 DATED: December 17 2009

DISABILITY RIGHTS ADVOCATES

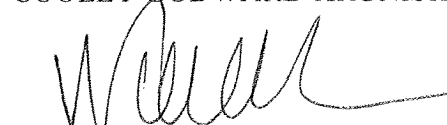


Anna Levine

Attorneys for STEPHANIE ENYART

22 Dated: December 17 2009

COOLEY GODWARD KRONISH LLP



Wendy J. Brenner

Attorneys for NATIONAL CONFERENCE OF
 BAR EXAMINERS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEPHANIE ENYART

Case No. C 09-05191 MEJ

Plaintiff,

~~PROPOSED~~ ORDER GRANTING
ADMINISTRATIVE RELIEF FROM
GENERAL ORDER NO. 56

v.

Judge: Hon. Charles R. Breyer

NATIONAL CONFERENCE OF BAR
EXAMINERS, INC., ACT, INC., AND THE
STATE BAR OF CALIFORNIA,

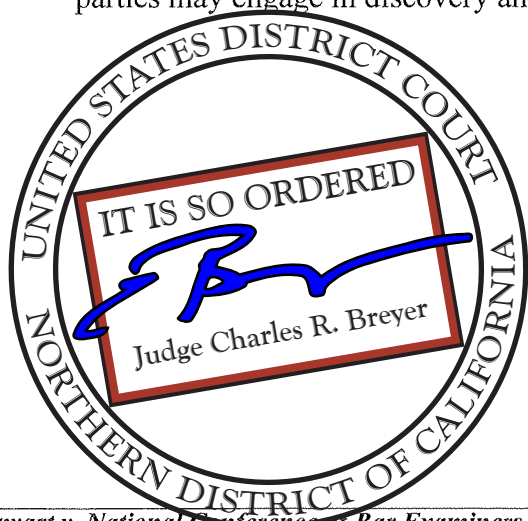
Action Filed: November 3, 2009

Defendant.

Having read and considered the foregoing stipulation by the parties moving for an order granting administrative relief from General Order No. 56, and the Court having found that good cause exists pursuant to Local Rule 7-11;

IT IS SO ORDERED that

1. The parties are granted administrative relief from General Order No. 56;
2. Plaintiffs may file, and the parties may brief, plaintiff's motion for preliminary injunction pursuant to the schedule set forth in their Joint Discovery and Scheduling Plan, and the parties may engage in discovery and other proceedings related to that motion.



CHARLES R. BREYER
United States District Judge,
Northern District of California